IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WP(C).No. 9610 of 2006(R)

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PETITIONER:

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TISHA NAVIGATION INC; 39/5132,
MILL LANE, CHURCH LANDING ROAD, ERNAKULAM,
KOCHI-682 016 REP. BY ITS PARTNER
MRS. GANGA BALAKRISHNAN.

BY ADV. SRI.N.SUBRAMANIAM
SRI.M.S.NARAYANAN

RESPONDENTS:

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1. UNION OF INDIA, REP. BY SECRETARY,
MINISTRY OF SCIENCE AND TECHNOLOGY,
DEPARTMENT OF SPACE, NEW DELHI.

2. THE DIRECTOR, VIKRAM SARABHAI SPACE
CENTRE, I.S.R.O. POST, THIRUVANANTHAPURAM.

3. THE SENIOR PURCHASE OFFICER, VIKRAM
SARABHAI SPACE CENTRE, PURCHASE UNIT VI,
BUILDING NO.9, 70 ACRE AREA,
THIRUVANANTHAPURAM-22.

4. M/S. AMROK INVESTMENTS AND INDUSTRIALS,
C/O. LARDNER NORTH CO; KERALA, MIG-395,
PANAMPILLY NAGAR, ERNAKULAM, COCHIN-682 036.

BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR
SRI.V.M.KURIAN
SRI.K.T.THOMAS
SMT.TULASI PANICKER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07/08/2007 ALONG WITH W.P.(C)NO.1222/07, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1: TRUE COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT.

EXT.P2: TRUE COPY OF THE LETTER ISSUED BY PETITINER TO THE 3RD RESPONDENT.

EXT.P3: TRUE COPY OF THE LETTER ISSUED BY PETITIONER TO THE 3RD RESPONDENT.

EXT.P4: TRUE COPY OF THE LETTER DATED 25.4.2001 ISSUED BY M/S. RON MARITIME LIMITED TO THE MANAGER OF THE 2ND RESPONDENT AT ALWAYE.

EXT.P5: TRUE COPY OF TENDER SUBMITTED BY PETITIONER.

EXT.P6: TRUE COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P7: TRUE COPY OF THE LETTER ISSUED BY PETITIONER TO THE 3RD RESPONDENT.

EXT.P8: TRUE COPY OF THE LETTER ISSUED BY PETITIONER TO THE 3RD RESPONDENT.

EXT.P9: TRUE COPY OF THE LETTER ISSUED BY PETITIONER TO THE 3RD RESPONDENT.

EXT.P10: TRUE COPY OF THE REPRESENTATION SUBMITTED BY PETITIONER

RESPONDENTS EXHIBITS

EXT.R1: TRUE COPY OF THE RELEVANT PORTION (PARA 3.6) OF THE PURCHASE PROCEDURE OF THE DEPARTMENT OF SPACE OF THE GOVERNMENT OF INDIA DT. NIL.

EXT.R2: TRUE COPY OF THE RELEVANT PORTION (PARA 6.1) OF THE PURCHASE PROCEDURE OF THE DEPARTMENT OF SPACE OF THE GOVERNMENT OF INDIA DATED NIL.

EXT.R3: TRUE COPY OF THE PURCHASE ORDER DATED 20.02.2006.

EXT.R4(A): COPY OF THE INVITATION TO TENDER DT.13.10.05.

EXT.R4(B): COPY OF THE WORK ORDER DATED 20.02.2006.

EXT.R4(C): COPY OF THE LETTER DATED 24.02.2006 SENT BY THE PETITIONER TO THE 3RD RESPNDENT

EXT.R4(D): COPY OF JUDGMENT DATED 16.10.2006 IN W.P.(C)NO.9610/06.

EXT.R4(E): COPY OF ORDER DT. 20.12.2006 IN R.P.NO.1158/06.

EXT.R4(F): COPY OF THE APPLICATION FOR EXTENSION.

TRUE COPY

PA TO JUDGE.

**S. SIRI JAGAN, J.**

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**W.P.(C)NOs.9610/06& 1222 OF 2007**

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**DATED THIS THE 7th DAY OF AUGUST, 2007**

**JUDGMENT**

Both these writ petitions relate to inviting of tenders for the contract of transport of liquid effluents in tanker lorries, loading the same in the barges and depositing it at deep sea on behalf of Vikram Sarabhai Space Centre, Thiruvananthapuram. The petitioner in W.P. (C)No.9610/06 is an intending tenderer. The petitioner's contention is that tender has been awarded to the 4th respondent, who is the petitioner in W.P.(C)No.1222/07 without inviting tenders by public notice. The petitioner would submit that this violates the mandates of Article 14 of the Constitution of India, because by this process respondents 1 to 3 gets tenders only from a selected few of their choice excluding the other intending tenderers, who may also be interested in participating in the tender process, if the tenders are invited by public notice. By virtue of interim orders, the 4th respondent was originally permitted to continue for the period of contract up to 31.1.07. Subsequently also the petitioner in W.P.(c) No.1222/07 continued the work and the period ultimately expired on 29.7.07. He filed W.P.(C)No.1222/07 in view of the inviting of fresh tenders as per the earlier judgment in W.P.(C)No.9610/06 which was

later recalled in R.P.No.1158/06. Now what remains to be decided is the mode of inviting tenders in future. The only contention raised by the Vikram Sarabhai Space Centre before me is that when they once invited tenders by public notice only two tenderers participated and that is why they resorted to closed tenders. I do not understand the logic behind this contention. It is common knowledge that more responses would come in if tenders are invited by public notice. In the case of closed tenders only those persons to whom the VSSC gives intimation would participate. In such circumstance, the field of choice would be very limited. They also do not have any case that they are resorting to closed tenders to see that only tried and trusted tenderers participate. In the above circumstance, I am not satisfied with the explanation given by the VSSC in this matter. Accordingly, I dispose of this writ petition with the following directions.

2. While inviting tenders hereinafter in addition to the procedure followed by respondents 1 to 3 in inviting tenders from tenderers known to them they shall also invite tenders by public notification in newspapers and consider those tenders also along with tenders to be received pursuant to the intimation given to known tenderers. If the petitioner in W.P.(c)No.9610/06 or the petitioner in W.P.(C)No.1222/07 also submits tenders, the same also should be considered in accordance with their eligibility.

3. The learned standing counsel for the VSSC would voice an apprehension that during the interim period of finalization of the tenders if they are not allowed to continue the work through the petitioner in W.P.(C)No.1222/07, they may be put to difficulties since the effluents would accumulate. The standing counsel also assures this Court that the tender proceedings would be finalized within a period of three months. In the above circumstance, I permit the VSSC to continue with the present arrangement with the petitioner in W.P.(C)No.1222/07 purely as an interim measure for a period of three months.

**S. SIRI JAGAN, JUDGE**

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